IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 11498 of 2004

Between:

M.Venkateswarlu, s/o P.Venkata Kondaiah,
r/o Trustee of Sri Eswara Swamy Temple, Idamadaka(V), Duvvur (M),
Kadapa District.

..... PETITIONER

AND

1 The Assistant Commissioner of Endowments, Kadapa, Kadapa District.
2 The Inspector of Endowments, Proddutur, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly in the nature of writ of mandamus declaring the proceedings of the 1st respondent in D.Dis.No.A2/2947/2004, 26-6-2004 as illegal and arbitrary consequently to direct the respondents to administer oath of office and secrecy as laid down in Rule 7 r/w sec.19(2) of Act 30 of 1987 and grant such other relief

Counsel for the Petitioner: MR.G.VEERA REDDY

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following:

ORDER:

Petitioner was appointed as a Single Trustee in respect of Sri Eswara Swamy temple, Idamadaka village, Duvvuru Mandal, Kadapa District, by the orders of the Assistant Commissioner of Endowments dated 28.02.2004. The said appointment was made in exercise of powers conferred under Section 15(3) of the Andhra Pradesh and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') for a period of two years from the date of taking oath of office and secrecy. The order also shows that the Inspector of Endowments, Proddutur, Kadapa District, is authorised to administer the oath of office and secrecy to the newly appointed Single Trustee immediately.

In this writ petition, the petitioner assails the subsequent order passed by the Assistant Commissioner of Endowments dated 26.06.2004, whereunder the appointment of the petitioner as a Single Trustee has been cancelled on the ground that the petitioner failed to take oath of office and secrecy within (30) days as directed in the order dated 28.02.2004.

The contention of the petitioner is that under sub-section (2) of Section 19 of the Act, it is obligatory on the part of the Assistant Commissioner of Endowments to administer the oath of office and secrecy as prescribed, by any authorised person and in the instant case since the second respondent, who is authorised to administer the oath of office and secrecy to the petitioner, has not intimated the petitioner at any point of time with regard to date of administration of oath of office and secrecy, the first respondent is not justified in

cancelling the appointment of the petitioner as a Single Trustee.

In the writ petition, a counter affidavit has been filed only by the Assistant Commissioner of Endowments. In the said counter affidavit, it is stated that the petitioner has not taken oath of office and secrecy as contemplated under Section 19(2) of the Act and he himself did not visit Prodduturu, and did not request the second respondent to administer the oath of office and secrecy. It is also stated that convening of special meeting arises only when a board of trusteeship is appointed under Section 20 of the Act and since this is a case of appointment of a Single Trustee, there is no need to convene any special meeting and that it is mandatory on the part of the petitioner to take oath of office and secrecy within (30) days, and that it is not necessary to give an opportunity to the petitioner before passing the impugned order.

May be that there is no need to convene any special meeting, however the question is whether the second respondent issued any notice to the petitioner. In case inspite of the notice there is default on the part of the petitioner, the impugned order of cancellation is justified. Be that as it may, the second respondent, who is authorised under the order of appointment to administer the oath of office and secrecy, has not filed any counter and it has not been explained as to what steps he has taken for administering the oath of office and secrecy to the petitioner. There is nothing on record to substantiate the respective versions of the parties. Such a disputed question of fact cannot be enquired into by this Court in exercise of writ jurisdiction under Article 226 of the Constitution of India.

In the circumstances, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to file a revision petition under Section 92 of the Act before the Commissioner within six weeks from today. If such a revision petition is filed within the time stipulated above, the Commissioner shall consider the rival contentions raised by both the parties and pass appropriate orders in accordance with law after calling for the entire relevant record. Till

appropriate orders are passed by the Commissioner, there shall be a direction not to make any fresh appointment of Single Trustee in respect of the temple in question.

Accordingly, the writ petition is disposed of. No costs.

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25.08.2004

VGB

To

1 The Assistant Commissioner of Endowments, Kadapa, Kadapa District.
2 The Inspector of Endowments, Proddutur, Kadapa District.

3 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

4 2CD copies